

Assembly Bill No. 1238

CHAPTER 738

An act to amend Sections 12517.3 and 13376 of the Vehicle Code, relating to vehicles.

[Approved by Governor October 6, 1997. Filed
with Secretary of State October 7, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1238, Granlund. Vehicles: schoolbus certificates.

(1) Existing law requires applicants for an original certificate to drive a schoolbus, school pupil activity bus, youth bus, or general public paratransit vehicle to be fingerprinted by the Department of the California Highway Patrol on a form provided and approved by the Department of Motor Vehicles for submission to the Department of Justice.

This bill would require applicant fingerprint forms to be processed and returned to the area office of the Department of the California Highway Patrol from which they originated not later than 15 working days from the date on which the fingerprint forms were received by the Department of Justice, except as specified. The bill would require the Department of Justice to provide the required information within 3 working days upon the implementation of a prescribed electronic fingerprinting program.

(2) Existing law requires the Department of Motor Vehicles to revoke a schoolbus, school pupil activity bus, youth bus, or general public paratransit driver certificate, and deny an application for that certificate, for any of specified causes.

This bill would require the department to revoke the specified certificate following an opportunity to challenge the validity of the test, for 3 years if the certificate holder has received a positive test result for a controlled substance, as specified in federal regulations and existing law, except where the certificate holder is in compliance with a prescribed rehabilitation or return to duty program that meets specified federal requirements.

The bill would require the department to deny an application for the specified certificate if the applicant has received a positive test result, as specified, following an opportunity to challenge the validity of the test, for 3 years from the date of the confirmed positive test result.

The bill would require the carrier that requested the specified test to report the positive test result to the department not later than 5 days after receiving notification of the test result on a form approved by the department.

The bill would require the department to maintain a positive test result reported as specified above in the driving record of the applicant or certificate holder for 3 years from the date the department receives the report.

The people of the State of California do enact as follows:

SECTION 1. Section 12517.3 of the Vehicle Code is amended to read:

12517.3. (a) (1) Applicants for an original certificate to drive a schoolbus, school pupil activity bus, youth bus, or general public paratransit vehicle shall be fingerprinted by the Department of the California Highway Patrol on a form provided or approved by the department for submission to the Department of Justice, utilizing the Applicant Expedite Service.

(2) Applicant fingerprint forms shall be processed and returned to the area office of the Department of the California Highway Patrol from which they originated not later than 15 working days from the date on which the fingerprint forms were received by the Department of Justice, unless circumstances, other than the administrative duties of the Department of Justice, warrant further investigation.

(3) Upon implementation of an electronic fingerprinting program with terminals located statewide and managed by the Department of Justice, the Department of Justice shall provide the information required pursuant to this subdivision to the appropriate area office of the Department of the California Highway Patrol within three working days.

(b) Applicants for an original certificate to drive an ambulance shall submit a completed fingerprint card to the department.

SEC. 2. Section 13376 of the Vehicle Code is amended to read:

13376. (a) The department shall revoke a schoolbus, school pupil activity bus, youth bus, or general public paratransit driver certificate, and shall deny an application for that certificate, for any of the following causes:

(1) The applicant or certificate holder has been convicted of any sex offense as defined in Section 44010 of the Education Code.

(2) The applicant has, within the three years preceding the application date, either been convicted of a violation of Section 20001, 23103, 23104, 23152, or 23153, or has his or her driving privilege suspended, revoked, or placed on probation by the department for a cause involving the safe operation of a motor vehicle.

(3) The applicant has, within the two years preceding the application date, been convicted of any offense specified in Section 11361.5 of the Health and Safety Code.

(4) The applicant has failed to meet the prescribed testing requirements for issuance of the certificate.

(b) (1) The department shall revoke a certificate listed in subdivision (a), following an opportunity to challenge the validity of the testing described in this paragraph, for three years if the certificate holder has received a positive test result for a controlled substance, as specified in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations and Section 34520. However, the department shall not revoke a certificate under this paragraph if the certificate holder is in compliance with any rehabilitation or return to duty program that is imposed by the employer that meets the controlled substances and alcohol use and testing requirements set forth in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(2) If an applicant receives a positive test result and has been provided an opportunity to challenge the validity of the test, the department shall deny the application for a certificate listed in subdivision (a) for three years from the date of the confirmed positive test result.

(3) The carrier that requested the test shall report the positive test result to the department not later than five days after receiving notification of the test result on a form approved by the department.

(4) The department shall maintain a positive test result reported under paragraph (3) in the driving record of the applicant or certificate holder for three years from the date the department receives the report.

(c) (1) The department may temporarily suspend a schoolbus, school pupil activity bus, youth bus, or general public paratransit driver certificate, or temporarily withhold issuance of a certificate to an applicant, if the holder or applicant is arrested for or charged with any sex offense, as defined in Section 44010 of the Education Code.

(2) Upon receipt of a notice of temporary suspension, or of the department's intent to withhold issuance, of a certificate, the certificate holder or applicant may request a hearing within 10 days of the effective date of the department's action.

(3) The department shall, upon request of the holder of, or applicant for, a certificate, within 10 working days of the receipt of the request, conduct a hearing on whether the public interest requires suspension or withholding of the certificate pursuant to paragraph (1).

(4) If the charge is dismissed or results in a finding of not guilty, the department shall immediately terminate the suspension or resume the application process, and shall expunge the suspension action taken pursuant to this subdivision from the record of the applicant or certificate holder.

(d) An applicant or holder of a certificate may reapply for a certificate whenever a felony or misdemeanor conviction is reversed or dismissed. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges

pursuant to Section 1203.4a of the Penal Code is not a dismissal for purposes of this section.

(e) The determination of the facts pursuant to this section is a civil matter which is independent of the determination of the person's guilt or innocence, has no collateral estoppel effect on a subsequent criminal prosecution, and does not preclude the litigation of the same or similar facts in a criminal proceeding.

